

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 8, 2006**

AGENDA ITEM NO.: 14

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Amend Section 27-4 of the City Code Regulating Panhandling**

RECOMMENDATION:

Amend Section 27-4 of the City Code which regulates panhandling within the City.

SUMMARY:

Panhandling is an activity that is protected by the First Amendment to the United States Constitution and cannot be prohibited from such places as the public sidewalks, parks, etc. However, local governments can adopt reasonable regulations to ensure that panhandling is not conducted in an unsafe or inappropriate manner. From time to time it is necessary to amend the City's panhandling ordinance so it will comply with the decisions of the federal courts. The proposed revisions strike a balance between ensuring the free and safe passage of citizens and vehicles on the public rights-of-way, preventing inappropriate behavior and allowing citizens to exercise their First Amendment right to panhandle.

PRIOR ACTION(S):

The panhandling ordinance was previously amended on February 14, 2006 and November 14, 2000.

FISCAL IMPACT:

None

CONTACT(S):

Walter C. Erwin, 455-3973

ATTACHMENT(S):

An ordinance amending Section 27-4 of the City Code.

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTION 27-4 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTION RELATING TO PANHANDLING WITHIN THE CITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Section 27-4 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

Sec. 27-4. Panhandling.

(a) Purpose. Pursuant to the authority granted to the city by the Code of Virginia and its general police powers, the city does hereby adopt the following section in order to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, to ensure free and safe access to public areas and to regulate the time, place and manner of activities that could otherwise threaten the public health, safety and welfare, while also protecting the exercise of citizens' first amendment rights within the city.

(b) Definitions. The following words and phrases, when used in this section, shall have the following meanings:

(1) Aggressive manner means:

(i) approaching, speaking to or following a person in a manner that would cause a reasonable person to fear an assault, imminent physical injury, or the imminent commission of a criminal act upon the person or upon property in the person's immediate possession;

(ii) touching another person without that person's consent;

(iii) intentionally blocking or interfering by any means with the free passage of a person; or

(iv) engaging in any conduct with the intention of intimidating another person into giving money or goods to any person.

~~(2) "Ask, beg, or solicit" includes the spoken, written, or printed word or such other act conducted for the purpose of obtaining an immediate donation of money or thing of value.~~

~~(3~~ 2) Panhandle or panhandling means doing any of the following acts:

(i) approaching someone to begging, ~~solliciting~~ or asking for any items of value, monetary or otherwise;

(ii) attempting to sell or obtain compensation for an item or service for or in an amount that is at least twice its value, or an item or service that is already offered or available at no charge to the general public; or

(iii) attempting to sell or obtain compensation for an item or service under circumstances that would lead a reasonable person to conclude that the payment is in substance a donation.

~~(4~~ 3) Public place means any public highway or street, the median area that separates any tow or more public highways or streets, a crosswalk, sidewalk, alley, park, bridge, parking lot or other public property within the city, including any building or other structure, or the grounds surrounding buildings that is are open to the general public;

~~(5~~ 4) Travel lane means the portion of a public street over which motor vehicles travel.

(c) Prohibited acts. It shall be unlawful for any person while in the city:

(1) to ~~panhandle ask, beg, or solicit money or things of value~~, in an aggressive manner in any public place, ~~open to the general public, including sidewalks, streets, alleys, driveways, parking lots, parks, plazas, buildings, doorways and entrances to buildings, and gasoline service stations, and the grounds enclosing buildings.~~

(2) to panhandle in an aggressive manner in any public transportation vehicle, including busses and trains;

(3) to panhandle in an aggressive manner within fifteen (15) feet of any automatic teller machine;

(4) to panhandle ~~or, as a result of panhandling, to receive money or any other item of value~~, while standing or otherwise present in a public highway or street, a travel lane or a crosswalk, from any operator or occupant of a motor vehicle located in a travel lane;

(5) to ask ~~for, beg,~~ or solicit money or things of value in exchange for cleaning motor vehicle windows while the vehicle is in traffic on a public street.

(6) to distribute newspapers, newsletters, flyers or any other items to the operator or occupant of a motor vehicle while the vehicle is in traffic on a public street.

(7) to ~~panhandle ask, beg, or solicit money or things of value~~ on private property or residential property, including driveways, parking lots, plazas, buildings, doorways, entrances and the grounds surrounding buildings and service stations. without permission from the owner or occupant.

(8) except for the city, to ask ~~for, beg,~~ or solicit money or things of value from any operator or occupant of any motor vehicle in a travel lane, while standing, sitting, or otherwise occupying a public highway or street, the median area that separates any public highway or street, or from any area designated as a crosswalk.

~~(9) to ask, beg, or solicit money or things of value from any operator or occupant of a motor vehicle while the motor vehicle is using the travel lane of a public highway or street.~~

(d) Any person convicted of violating this section shall be guilty of a class 3 misdemeanor.

(e) If any portion of this section of the city code is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this section and such invalid provision or portions thereof shall be severable.

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council

088P